

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALLSTATE FIRE and CASUALTY
INSURANCE COMPANY,

Plaintiff/Counter-Defendant

vs.

BERNIE and MICHAEL TRISSELL,

Defendants/Counter-Plaintiffs.

No. 1:17-cv-00362 PJK/GBW

JUDGMENT

THIS MATTER came on for consideration by the court on cross-motions for summary judgment and the court having made its decision (ECF No. 24):

IT IS ORDERED, ADJUDGED, and DECREED that the rights of the parties are as follows:

1. Plaintiff/Counter-Defendant Allstate issued an automobile policy to Defendants/Counter-Plaintiffs Bernie and Michael Trissell.
2. Allstate properly offered uninsured/underinsured (UM/UIM) coverage to the Trissells, including stacked coverage. Allstate obtained a valid rejection of stacked coverage from the Trissells.
3. The Trissells selected non-stacked coverage, and their selection was valid under New Mexico law.

4. The Trissells are bound by their selection and not entitled to a reformation of the policy to provide stacked UM/UIM coverage of \$75,000 per person and \$150,000 per accident.

5. The policy provides only non-stacked UM/UIM coverage of \$25,000 per person and \$50,000 per accident;

6. Allstate has not acted in bad faith nor breached the contract in so interpreting the policy.

7. Given the above, the Trissells' counterclaims for breach of contract, violations of the New Mexico Unfair Practices Act, insurance bad faith, and claims for punitive damages are not viable and the Trissells shall take nothing on them and the counterclaims in their entirety are dismissed with prejudice.

8. Plaintiff/Counter-Defendant Allstate shall recover its costs.

DATED this 5th day of December 2017, at Santa Fe, New Mexico.

/s/Paul Kelly, Jr.
United States Circuit Judge
Sitting by Designation